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Intervet Inc.

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Intervet Inc. 405 State Street P.O. Box 318 Millsboro, DE 19966 (302) 934-8051

October 24, 2003

7.. pages including cover sheet.

PERSON TO:	COMPANY/DEPT TO:	FAX NUMBER:
Examiner P. Baskar	Group Art Unite= 1645	703 308 4242

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William P. Ramey III

Intervet, Millsboro Patent Department 302 934 4305

RE: USSN 10/087,573

Attorney Docket Number I 2001.004 US

Receipt is acknowledged of the paper: and fees listed below in the above-identified application:

Response to Restriction Requirement (5 pages)

Certificate of Transmiss on (1 page)

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Attorney Docket Number I 2001.004 US

Response to Restruction Requirement of Sept. 24, 2003 (5 pages)

IN THE UNITED ST. ITES PATENT AND TRADEMARK OFFICE

In re the application of:

SCHETTERS, et al.

Serial Number: 10/087,573

Group Art Unit: 1645

Filed: February 28, 2003

Examiner: Baskar, P.

For: BABESIA CANIS VACCINE

Corresponding to: EP01200816.5, iled 06 March, 2001

Response to Restriction Requirement of September 24, 2003 and Preliminary Amendment

Assistant Commissioner of Patents Washington, D.C. 20231

Dear Sir,

I. Introduction

Applicants hereby respectfully respond, as follows, to the Restriction Requirement of September 24, 2003 and make a Proliminary Amendment: Please charge any required fees and credit any credits to deposit account 02-2334.

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Ц. Claim Amendments

Claims 1-31 (Cancelled, without prejudice or disclaimer to pursue the Claims of Group II)

- 32. A Babesia canis associated protein, said protein having a molecular weight of 15 kD and comprising an amino acid sequence that is at least 80% homologous to the amino acid sequence as depicted in SEC ID NO:2 or an immunogenic fragment of said protein.
- 33. The Babesia canis associated protein of claim 32 wherein the amino acid sequence is at least 85% homologous to the amino acid sequence as depicted in SEQ ID NO: 2, or an immunogenic fragment of said protein.
- 34. The Babesia canis associat: I protein of claim 32 wherein the amino acid sequence is at least 90% homologous to the amino acid sequence as depicted in SEQ ID NO: 2, or an immunogenic fragment of said protein.
- 35. The Babesia canis associated protein of claim 32 wherein the amino acid sequence is at least 95% homologous to the amino acid sequence as depicted in SEQ ID NO: 2, or an immunogenic fragment of said protein.
- Claims 36-63 (Cancelled, vithout prejudice or disclaimer to pursue the Invention of Group II)
- 64. (New) A vaccine for combiting Babesia canis infections, comprising an immunogen selected from the group consisting of a nucleic a protein according to Claim 32 and a pharmaceutically acceptable carrier.
- 65. (New) The vaccine of claim 36 further comprising an adjuvant.
- 66. (New) The vaccine of claim 36 further comprising an additional antigen derived from a virus or microorganism pat ogenic to dogs or a nucleic acid sequence encoding said antigen.
- 67. (New) The vaccine according to claim 38, wherein said virus or micro-organism pathogenic to dogs is selected from the group of Ehrlichia canis, Babesia gibsoni, vogeli, rossi, Leishmania donovan. complex, Canine parvovirus, Canine distempervirus, Leptospira interrogans ser: >ar canicola, icterohaemorrhagiae, pomona, grippotyphosa,

Response to Restriction 2 bratislava, Canine hepatitisu rus, Canine parainfluenzavirus, rabics virus, Hepatozoon canis and Borrelia burgdorfi ri.

Response to Restriction

III. Remarks and Conclusion

Claims 32-35 and 64-67 are currently pending. Claims 1-31 and 36-63 have been cancelled without prejudice or disc timer to pursue the Claims of Invention II, as defined by the Examiner. No estoppel. The cancillations made were not based on reasons related to patentability under 35 U.S.C. §§ U. C. 101, 102, 103 and/or 112. No estoppel should result from said cancellations. Applicants expressly reserve the right to pursue the non-elected subject matter in a divisional application.

In response to the Restriction Requirement of September 24, 2003, Applicants elect Group II, Claims 32-35, with traverse.

Applicants have added new Claims 64-67. Such new Claims are directed towards a vaccine comprising the protein of Claims 32-35. The added Claims will pose no undue burden on the Examiner and Applicants respectfully request their consideration. The Claims are added before any prosecution on the mounts.

In conclusion, Applicants reaffirm the election of Group II. Further, Applicants assert the Claims are in a condition for allocance and such action is respectfully requested. Should the Examiner determine an interview would best further the prosecution of the case, the Examiner is invited to contact the undersigne. attorney at (302) 933-4034.

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Respectfully Submitted,

William P. Ramcy III

Patent Attorney

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Attorney Docket Number I 2001.004 US Akzo Nobel Pharma Patent Department Intervet Inc. 405 State Street P.O. Box 318 Millsboro, DE 19966 Tel. (302) 933-4034 Fax (302) 934-4305